

HOUSE BILL REPORT

3SSB 5412

As Passed House - Amended:

March 5, 2004

Title: An act relating to identity theft penalties and prevention.

Brief Description: Requiring biometric identifiers from applicants for driver's licenses and identicards.

Sponsors: By Senate Committee on Highways & Transportation (originally sponsored by Senators Brandland, Kline, Winsley, Haugen, Prentice, Reardon, Rasmussen, Eide and McCaslin).

Brief History:

Committee Activity:

Transportation: 3/1/04 [DP].

Floor Activity:

Passed House - Amended: 3/5/04, 66-28.

Brief Summary of Third Substitute Bill (As Amended by House)

- Increases the civil liability for identity theft from \$500 to \$1,000, or actual damages, whichever is greater.
- Requires the Department of Licensing to implement a voluntary biometric matching system for driver's licenses and identicards.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 20 members: Representatives Murray, Chair; Rockefeller, Vice Chair; G. Simpson, Vice Chair; Jarrett, Assistant Ranking Minority Member; Armstrong, Bailey, Clibborn, Cooper, Flannigan, Hankins, Hatfield, Hudgins, Lovick, Morris, Nixon, Rodne, Romero, Shabro, Wallace and Woods.

Minority Report: Do not pass. Signed by 7 members: Representatives Ericksen, Ranking Minority Member; Campbell, Dickerson, Kristiansen, Mielke, Schindler and Wood.

Staff: Jill Satran (786-7315).

Background:

Identity theft occurs when someone appropriates another person's personal information, without that person's knowledge, to commit fraud or theft. A common piece of personal information that is used to commit this crime is a fraudulently issued driver's license. Currently, an individual who commits identity theft in the first or second degree is subject to criminal sanctions and is liable for civil damages of \$500 or actual damages, whichever is greater.

Most U.S. states are investigating the use of biometric technologies to reduce fraud and improve efficiency in driver's license and ID card (DL/ID) issuance operations. Biometric technology can verify the identity of individuals based on their unique physical characteristics. Biometrics software takes photographs or scans of physical features such as facial features, retinas or fingerprints and quantifies that information into mathematical algorithms. Facial biometrics quantify the distances between major points such as the eyes, nose or temples, and fingerprint biometrics quantifies the distances between branches and endpoints of the ridges. Once the information is stored, scans of the thumb or other physical features can be cross-checked with existing databases to verify identity.

- One-to-one biometric technology allows an individual's identifying characteristics to be matched against previously stored characteristics for the same individual to determine whether the individual is the same person.
- One-to-many biometric technology would allow the Department of Licensing to check a new driver license or identocard applicant against a database of other drivers to ensure that the individual is not already licensed elsewhere or under another name.

The Department of Licensing currently records customer signatures and facial images but does not have the authority to convert this data for possible use as a biometric measure.

Summary of Amended Bill:

The civil liability for committing identity theft in the first or second degree is increased from \$500 to \$1,000 or actual damages, whichever is greater.

The Department of Licensing must implement a highly accurate biometric matching system by January 1, 2006. This system is to be used only to verify the identity of an applicant for renewal or issuance of a duplicate license or identocard. When the biometric driver's license and identocard system is established, the department must allow every person applying for an original, renewal, or duplicate driver's license or identocard the option of submitting a biometric identifier. A fee of up to \$2 may be charged to add a biometric identifier to a driver's license or identocard.

Individuals who choose to provide biometric information must be informed of the following:

1. Ways in which the biometric identifier may be used;
2. Parties to whom the identifier may be disclosed; and

3. Expected error rates for the matching system chosen and the potential consequences of the errors.

The department must adopt rules to allow applicants to verify the accuracy of the system at the time the biometric information is submitted, including the use of verification through separate devices. And, the system selected must incorporate the use of personal identification number or codes to be used with the driver's licenses and identicards before verification can be made by a third party. The DOL must develop procedures to handle circumstances when the matching system fails and must allow applicants to provide identity without using a biometric identifier. An individual who has provided biometric identifiers to the department may discontinue participation at any time, and that individual's biometric information must be destroyed by the department.

All biometric information gathered from individuals must be stored with appropriate safeguards. The DOL may not disclose biometric information to the public or any governmental entity except when authorized by court order.

The selection of a biometric matching system must be fully reviewed by the Information Services Board (ISB) using criteria for projects of the highest visibility and risk.

Sections 1, 3, 4 and 5 of this bill are null and void if funding is not provided for the implementation of the bill in the transportation appropriations act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect July 1, 2004. However, sections 1 through 5 of the bill are null and void if not funded in the budget.

Testimony For: Driver's licenses are frequently used as a tool to commit identity theft and fraud. A voluntary biometric system allows people to obtain additional security on their driver's license or identicard if they choose. Retailers and financial institutions rely heavily on the integrity of the driver's license and this bill provides a means of protecting that document. Six states already have successful mandatory biometrics efforts underway, and three have voluntary programs.

Testimony Against: None.

Persons Testifying: Senator Branland, prims sponsor; Tim Schelberg, Washington Association of Sheriffs and Police Cheifs; and Denny Eliason, Washington Bankers Association.

(Information only) Derek Goudriaan, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.